

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 86 - SB 1871

March 30, 2011

SUMMARY OF BILL: Expands the “Drug-Free School Zone” to a “Crime-Free School Zone.” Requires enhanced and mandatory minimum sentences for specified crimes committed on a public school bus, within 1,000 feet of the real property comprising a designated public school bus stop, any elementary, middle, or secondary school, preschool, child care agency, public recreational center, or public park. Imposes sentence enhancements for assault, aggravated assault, reckless endangerment, vehicular assault, female genital mutilation, violation of an order of protection or restraining order, communicating a threat concerning a school employee, robbery, aggravated robbery, especially aggravated robbery, sexual offenses enumerated in Tenn. Code Ann. § 39-13-5, any offense involving a prohibited firearm if the provisions of this bill regarding crime-free zones are not already an essential element of the offense, any felony involving a deadly weapon and carjacking. Authorizes specified civil penalties in addition to criminal penalties. Requires offenders to serve the entire minimum sentence prior to becoming eligible for sentence reduction credits.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$3,000,800/Incarceration*

Assumptions:

- The bill deletes Tenn. Code Ann. § 39-17-432, which created the “Drug-Free School Zone,” but includes those drug offenses in the newly created “Crime-Free School Zone.”
- According to the Department of Correction (DOC), when adjusting for a possible 15 percent sentence reduction credit, most offenders sentenced for the crimes enumerated in this bill are currently serving more than the minimum sentence. The offenders used to calculate the additional costs are assumed to have earned sentence credits and did not serve a minimum sentence.
- According to DOC, there has been a 10-year average of four admissions for facilitated aggravated assault and 143 admissions for reckless aggravated assault. There were 147 admissions for these Class D offenses with 10 percent of those (15) being committed on a bus, within a school zone or bus stop, child care agency, library, public recreational area, or public park. Fifteen offenders will serve an additional 1.01 years (368.90 days) for these Class D offenses.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in two additional offenders in the tenth year.

- According to DOC, 25.5 percent of offenders will re-offend within one year of their release. A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who will re-offend under current law within the additional time added by this bill. It is assumed that the re-offender will commit the subsequent offense at the same felony level as under current law (17 offenders x 25.5% recidivism discount = 4 offenders). The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 13 offenders (17 - 4).
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The cost per offender at 1.01 years (368.90 days) is \$22,362.72 (60.62 x 368.90 days). The total additional cost for increasing the average sentence length by 1.01 years for 13 offenders is \$290,715.36 (\$22,362.72 x 13).
- According to DOC, there has been a 10-year average of 676 admissions for aggravated robbery, 13 admissions for attempted especially aggravated robbery, and 28 admissions for carjacking. There were 717 admissions for these Class B offenses with 10 percent (72) committed on a bus, within a school zone or bus stop, child care agency, library, public recreational area, or public park. Population growth will result in eight additional offenders. A recidivism discount of 25.5 percent applied to these 80 offenders results in 60 offenders. The maximum cost in the tenth year is based on 60 offenders serving an additional 2.04 years (745.11 days) for these Class B offenses. The cost per offender for 2.04 years is \$45,168.57 (\$60.62 x 745.11 days). The total additional operating cost for increasing the average sentence length by 2.04 years for 60 offenders is \$2,710,114.20 (\$45,168.57 x 60).
- According to DOC, there has been a 10-year average of two offenders for the Class C felony offense of solicitation of especially aggravated robbery. No additional cost for the Department after the discount for recidivism has been applied to these admissions.
- The total additional increase in state expenditures will be \$3,000,829.56 (\$290,715.36 + \$2,710,114.20).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc